

JUN 03 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANILA INDUSTRIES, INC.;
NETSPHERE, INC.; MUNISH
KRISHAN,

Plaintiffs - Appellants,

v.

ONDOVA LIMITED CO., d/b/a
COMPANA, LLC; JEFFREY BARON,

Defendants - Appellees,

and

REALTY INVESTMENT
MANAGEMENT LLC; HCB LLC,

Defendants.

No. 07-55232

D.C. No. CV-06-01105-AG

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Andrew J. Guilford, District Judge, Presiding

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Submitted May 6, 2009**
Pasadena, California

Before: THOMPSON, O'SCANNLAIN, and TALLMAN, Circuit Judges.

Manila Industries, Inc., Munish Krishan (the sole owner of Manila Industries, Inc.), and Netsphere appeal the district court's dismissal of their claims against Ondova Limited Co. for improper venue, and of their claims against Jeffrey Baron (the sole owner of Ondova) for lack of personal jurisdiction. The parties are familiar with the facts; we need not recount them here.

The claims against Ondova were properly dismissed. The business relationship between Manila Industries and Ondova was governed in part by a Bulk Registration Agreement. This agreement contained a forum selection clause providing that "any dispute ... arising out of or resulting from the construction, interpretation, enforcement, or any other aspect of this Agreement" must be brought in a "Court of competent jurisdiction sitting in and for the County of Dallas."

Each of Manila Industries's claims "relates in some way" to the rights and duties enumerated in the Bulk Registration Agreement. *See Manetti-Farrow, Inc. v. Gucci Am., Inc.*, 858 F.2d 509, 514 (9th Cir. 1988). Manila Industries's claims

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

“cannot be adjudicated without analyzing whether the parties were in compliance with the contract.” *Id.* Accordingly, the claims are “within the scope” of the agreement’s forum selection clause. *Id.*

The forum selection clause in the Bulk Registration Agreement may also be enforced against Netsphere, though Netsphere was not a party to the agreement. Netsphere claims rights to domain names which are covered by the Bulk Registration Agreement and Customer Registration Agreement between Manila Industries and Ondova. These claims are “closely related” to the Bulk Registration Agreement. Thus, the forum selection clause applies to Netsphere. *See Manetti-Farrow*, 858 F.2d at 514 n.5.

The claims against Baron were also properly dismissed. Manila Industries failed to show the unity of interest required to pierce the corporate veil, and exercise jurisdiction over Baron as the alter ego of Ondova. *See Katzir’s Floor and Home Design, Inc. v. M-MLS.com*, 394 F.3d 1143, 1149 (9th Cir. 2004) (“The mere fact of sole ownership and control does not eviscerate the separate corporate identity that is the foundation of corporate law.”).

In the alternative, Manila Industries argues that Baron should be subject to jurisdiction based on his own contacts with the forum state. Manila Industries failed to raise this argument before the district court, and we decline to entertain it

on appeal. *See, e.g., Fed. Sav. and Loan Ins. Corp. v. Butler*, 904 F.2d 505, 509 (9th Cir. 1990) (“As a general rule, an appellate court will not consider arguments which were not first raised before the district court, absent a showing of exceptional circumstances.”).

The claims against Ondova and Baron were properly dismissed.

AFFIRMED.